

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DINORA ROMERO, on behalf of herself and all  
others similarly situated,

Plaintiff,

Docket No.: 15 CV 07397  
(JS) (GRB)

- against -

BESTCARE, INC., BESTCARE MANAGEMENT,  
INC. and LAWRENCE WIENER,

Defendants.

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STIPULATION AND [PROPOSED] ORDER REGARDING  
CONDITONAL CERTIFICATION, ISSUANCE  
OF COLLECTIVE AND CLASS ACTION NOTICE

Plaintiff DINORA ROMERO, on behalf of herself and all others similarly-situated, and  
Defendants BESTCARE, INC., BESTCARE MANAGEMENT, INC. and LAWRENCE  
WIENER, in his individual capacity (collectively “Defendants”), through their respective  
counsel, hereby stipulate, and the Court hereby orders, that:

The First Claim for Relief in Plaintiff’s Complaint (paragraphs 45-55 thereof) shall be  
conditionally certified pursuant to section 216(b) of the Fair Labor Standards Act (“FLSA”), 29  
U.S.C. § 216(b) and the Second, Third and Fourth Claims for Relief under the New York Labor  
Law (“NYLL”) shall be conditionally certified as a class pursuant to F.R.C.P. 23(a), both with  
respect to a class consisting of individuals employed by Defendants as home health aides at the  
Queen of the Rosary Motherhouse located at 555 Albany Avenue, Amityville, New York as of  
December 31, 2012. Specifically, the parties stipulate to the following collective/class  
superseding those otherwise defined in the Complaint:

Current and former employees of Defendants who, during the applicable FLSA and New York Labor Law (“NYLL”) limitations period, perform or performed home health aide work for Defendants at the Queen of the Rosary Motherhouse located at 555 Albany Avenue, Amityville, New York as of December 31, 2012, and (1) who timely give consent to file a claim to recover damages for overtime compensation that is legally due to them, but unpaid, for the time worked in excess of forty hours per week (“FLSA Plaintiffs”); and (2) who do not timely opt out of the class to recover damages under the NYLL.

1. Defendants’ counsel shall deliver to Plaintiff’s counsel a full and complete list of all FLSA Plaintiffs’ names, and last known addresses, telephone numbers and email addresses, to the extent same are available (“Class List”) in a Word or Excel file within forty-five (45) days of the Court so-ordering this Stipulation as entered on the Court Docket.

2. FLSA Opt-In: Plaintiff’s counsel shall send English version of the Notice and Opt-In Form attached hereto as Exhibit “A” to putative members of the collective class and the Opt-In period shall be a sixty (60) day period commencing fifteen (15) days after the date on which Defendants deliver to Plaintiff’s counsel the Class List.

3. NYLL Opt-Out: Plaintiff’s counsel shall send the English version of the Notice and Opt-Out Form attached hereto as Exhibit “B” to putative members of the Rule 23(b) class Ninety (90) days after the date on which Defendants deliver to Plaintiff’s counsel the Class List and the Opt-Out period shall be a sixty (60) day period commencing Ninety (90) days after the date on which Defendants deliver to Plaintiff’s counsel the Class List.

4. By stipulating to Conditional Certification, the Defendants are not waiving their rights to move to decertify this collective/class action pursuant to FLSA § 216(b) or the F.R.C.P. including, but not limited to Rule 23 thereof, to oppose any future motion that Plaintiff might make with respect to the issue of certification of an FLSA collective action and/or NYLL class action and/or all other defenses otherwise available to defendants.

5. This stipulation may be executed in counterparts and by facsimile/scanned signatures, which shall bear the same weight as original signatures.

Dated: November 28, 2017

*/s/ Anthony V. Merrill, Esq.*

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Anthony V. Merrill, Esq. (via ECF)  
Frank & Associates, P.C.  
Attorneys for Plaintiff  
500 Bi-County Boulevard – Suite 465  
Farmingdale, New York 11735  
631.756.0400

Dated: November 28, 2017

*/s/ Jonathan P. Arfa, Esq.*

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Jonathan P. Arfa, Esq. (via ECF)  
Jonathan P. Arfa, P.C.  
Attorneys for Defendants  
2 Westchester Park Drive  
White Plains, New York 10604  
914.694.1000

SO ORDERED:

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The Honorable Joanna Seybert  
United States District Judge for the  
Eastern District of New York

DATE: November \_\_\_\_, 2017